

U.S. Patent Application Serial No. 09/892,457
Amendment filed June 8, 2005
Reply to OA dated December 9, 2004

REMARKS

Claims 1-9 are pending in this application. No amendment is made in this response. It is believed that this Response is fully responsive to the Office Action dated **December 9, 2004**.

Claims 1, 2 and 4-9 are rejected under 35 U.S.C. §103(a) as being unpatentable over Cooper (U.S. 2,896,194) in view of Meyer (U.S. 4,264,760). (Office action paragraph no. 3)

The rejection of claims 1, 2 and 4-9, is respectfully traversed, and reconsideration of the rejection is requested.

In paragraph no. 5 of the present Office action, the Examiner discusses the issue of the scope of the “consisting essentially of” clause in claim 1, with regard to whether the combination of Cooper and Meyer would include “filler”. The Examiner states that “consisting essentially of” is to be construed as “comprising”, and states:

“... the burden was on the applicant to show that the additional ingredients in the prior art, i.e. filler, would in fact be excluded from the claims and that such ingredients would materially change the characteristics of the applicant’s invention, See MPEP 2111.02.”

In response, Applicant notes that component (B) of the present invention is “an alkali earth metal oxide and/or an alkali earth metal hydroxide.” Applicant asserts that neither Cooper nor Meyer suggests that such alkaline materials be incorporated into a composition containing a resol

U.S. Patent Application Serial No. **09/892,457**
Amendment filed June 8, 2005
Reply to OA dated December 9, 2004

phenol resin and ammonium thiosulfate, since the inert fillers disclosed in Cooper are either neutral (sand, etc.) or weakly acidic (silica, etc.). The present claims exclude incorporation of fillers with such characteristics.

Moreover, Cooper and Meyer fail to disclose the unexpected effects of the present invention that are due to the combination of the components (B) and (C). As demonstrated in the present specification, such a combination enables curing of the composition at a low temperature in the present invention. If fillers such as those disclosed in Cooper were included into the present composition, the curing reaction would hardly occur.

Claims 1, 2 and 4-9 are rejected under 35 U.S.C. §103(a) as being unpatentable over Gerber (U.S. 5,294,649). (Office action paragraph no. 4)

The rejection of claims 1, 2 and 4-9, is respectfully traversed, and reconsideration of the rejection is requested.

Examiner maintains the obviousness rejection under 35 U.S.C. 103(a), stating that ammonium thiosulfate would have been within the scope of Gerber's disclosure of accelerators in column 12.

In response, Applicant argues that there are "unexpected results" arising from the combination of components in present claim 1. In support of this argument, Applicant has performed comparative tests as described in the attached Declaration under 37 CFR 1.132, by Mr. Kunio Mori.

The Declaration discusses the preparation of four compositions in which, instead of ammonium thiosulfate (component (C) in claim 1), accelerators disclosed in Gerber were used, in combination with resole resin and magnesium oxide. Using the thus prepared compositions, curing reactions were performed as in the Examples of the present application (page 8). The results of the curing are shown in the Table on page 2 of the Declaration.

To summarize, this Table gives the results of four compositions made using either 2,4,6-tris(diethylaminomethyl)phenol ("X") or 1,4-diazabicyclo[2.2.2]octane ("Y"), at two different concentrations, in compositions containing resole resin and different amounts of magnesium oxide. 2,4,6-tris(diethylaminomethyl)phenol ("X") and 1,4-diazabicyclo[2.2.2]octane ("Y") are two of the accelerators listed by Gerber (column 13, line 65, to column 14, line 42; and column 13, line 61).

As demonstrated in the Table, if the accelerators disclosed in Gerber are used instead of ammonium thiosulfate as in the present invention, the curing reaction does not occur at a low temperature. The result in the present invention of curing at low temperature with the use of ammonium thiosulfate is clearly unexpected based on the teachings of Gerber. Applicant therefore submits that the combination of present claim 1, as well as dependent claims 2 and 4-9, are not anticipated by, and are non-obvious over, Gerber '649.

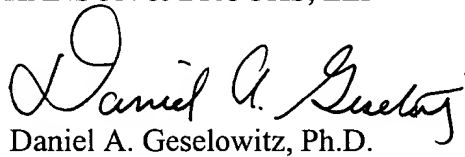
If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact Applicant's undersigned agent at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

U.S. Patent Application Serial No. **09/892,457**
Amendment filed June 8, 2005
Reply to OA dated December 9, 2004

In the event that this paper is not timely filed, Applicant respectfully petitions for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 01-2340.

Respectfully submitted,

ARMSTRONG, KRATZ, QUINTOS,
HANSON & BROOKS, LLP



Daniel A. Geselowitz, Ph.D.

Agent for Applicant

Reg. No. 42,573

DAG/lrj

Atty. Docket No. **010825**
Suite 1000
1725 K Street, N.W.
Washington, D.C. 20006
(202) 659-2930



23850

PATENT TRADEMARK OFFICE

Enclosure: Declaration under 37 CFR §1.132.

H:\FLOATERS\dgeselowitz\01\010825\010825 RESPONSE E-3 filed 6-8-05 final